



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

| | |
|----------------------------|---|
| Agency Name: | Board of Medicine, Department of Health Professions |
| VAC Chapter Number: | 18 VAC 85-101-10 et seq. |
| Regulation Title: | Regulations Governing the Practice of Radiologic Technology |
| Action Title: | Continuing competency and inactive licensure |
| Date: | 4/6/01 |

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

Amendments to regulations are proposed to establish as evidence of continuing competency a requirement of 24 hours of continuing education per biennium for a radiologic technologist or 12 hours per biennium for a radiologic technologist-limited to have his active license renewed. Amendments will also establish inactive licensure for radiologic technologists and radiologic technologists-limited pursuant to the specific authority granted in the Code of Virginia by Chapter 469 of the 1998 Acts of the Assembly. The amended regulations set forth the qualifications and requirements for reactivation of an inactive or reinstatement of a lapsed license which are consistent with protection of the public health and safety.

Changes Made Since the Proposed Stage

Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.

No changes to proposed regulations have been made in the adoption of final amendments.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On April 6, 2001, the Board of Medicine adopted final amendments to 18 VAC 85-101-10 et seq., Regulations Governing the Practice of Radiological Technology for the purpose of establishing requirements for continuing competency and for an inactive license and the requirements for reactivation or reinstatement.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law

Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*

3. *To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
4. *To establish schedules for renewals of registration, certification and licensure.*
5. *To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
6. *To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 and Chapter 25 of this title.*
7. *To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
8. *To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
9. *To take appropriate disciplinary action for violations of applicable law and regulations.*
10. *To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*
11. *To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*

12. *To issue inactive licenses and certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of such licenses or certificates.*

§54.1-2912.1 (Chapter 227) as enacted by the 1997 General Assembly **mandates** that the Board promulgate regulations for the establishment of continuing competency requirements.

§ 54.1-2912.1. Continued competency requirements.

A. The Board shall prescribe by regulation such requirements as may be necessary to ensure continued practitioner competence which may include continuing education, testing, and/or any other requirement.

B. In promulgating such regulations, the Board shall consider (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system..

C. The Board may approve persons who provide or accredit such programs in order to accomplish the purposes of this section.

In addition to § 54.1-2400 (cited above), the Board is also authorized by § 54.1-103 to specify additional training for licensees seeking renewal of licenses.

§ 54.1-103. Additional training of regulated persons; reciprocity; endorsement.

A. The regulatory boards within the Department of Professional and Occupational Regulation and the Department of Health Professions may promulgate regulations specifying additional training or conditions for individuals seeking certification or licensure, or for the renewal of certificates or licenses.

The Assistant Attorney General who provides counsel to the Board of Medicine has provided a letter of assurance that the amended regulations are consistent with statutory law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The Board of Medicine is mandated by § 54.1-2912.1 of the *Code of Virginia* to prescribe requirements as may be necessary to ensure continued practitioner competence which may include continuing education. The purpose of the amendments is to establish a continuing education requirement for active practice as an indication of the practitioner’s competency to have his license renewed and to establish inactive licensure for radiologic technologists and radiologic technologists-limited pursuant to the specific authority granted in the Code of Virginia. The amended regulations

set forth the qualifications and requirements for reactivation of an inactive or reinstatement of a lapsed license which are consistent with protection of the public health and safety.

The amended regulation protects the public by requiring that the applicant for reinstatement complete continuing education hours and provide information on practice and licensure in other jurisdictions during that period. That provides the Board with an opportunity to check on whether there has been any disciplinary action taken on the licensee who may have been in practice elsewhere during the time the license was lapsed in Virginia. The Board also maintains its authority to deny reinstatement to anyone who has committed acts in violation of law or regulation.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

The Advisory Board recommended and the Board adopted a renewal requirement for radiologic technologist, which consists of a total of 24 hours per biennium of continuing education approved by the ARRT with at least 12 of those hours in Category A learning. For the radiologic technologist-limited, the requirement will be 12 hours each biennium of Category A continuing education in the anatomical areas in which the limited licensee practices.

Along with requirements for continuing competency for renewal of licenses, the Board is establishing an inactive license for those practitioners who want to take a leave of absence or are now out-of-state and have no intention of engaging in active practice in the Commonwealth. In doing so, requirements for reactivation of such a license are necessary to ensure that practitioners are competent to resume practice. The Board determined that it was necessary for a practitioner whose license has been inactive or has been lapsed to provide evidence of continuing competency hours equal to one biennium.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

Advantages and disadvantages to the public and to licensees

There are no disadvantages to the public which is better protected by having a continuing competency requirement for radiologic technology practitioners in order to renew an active license. Likewise, there are no disadvantages for the public which remains protected by requirements that assure that an active practitioner is current in his skills and knowledge. By requiring an inactive or lapsed licensee to provide evidence of continued competency to practice, the Board has the

opportunity to determine whether the practitioner has remained professionally current or has taken courses to update his knowledge and skills. The Board also maintains its authority to deny reinstatement to anyone who has committed acts in violation of law or regulation.

For the licensees, the CE requirement will necessitate some effort and costs to maintain an active license. The proposed regulations would minimize the expense and time away from practice because the required hours of CE are widely available from a variety of sources. It should not be unnecessarily burdensome for the practitioner who is maintaining an active license to practice to be able to acquire the needed hours during the biennium. For persons who do not want to actively practice for a period of time, these regulations will allow them to maintain an inactive license and eliminate the need to reapply for reinstatement of an expired license. Renewal of an inactive license is also less expensive than renewal of an active license.

Advantages and disadvantages to the agency:

The Board will incur some additional costs to monitor compliance of licensees, and to hold additional disciplinary hearings for individuals who do not comply with the requirement. It is anticipated that the current fees for these professions will be sufficient to cover costs for compliance and enforcement.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

A public hearing was held before the Board of Medicine at the Department of Health Professions in Richmond on January 10, 2001. No comment was presented at that time nor was any written or electronically submitted comment received.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

18 VAC 85-101-150. Biennial renewal of license.

An amendment is proposed to add a requirement for renewal that a licensed radiologic technologist must obtain 24 hours of CE approved and documented by the American Registry of Radiologic Technologists (including 12 hours of Category A) during the past biennium. For the radiologic technologist-limited to renew a license biennially, 12 hours of approved CE in the anatomical area in which the licensee practices would be required.

18 VAC 85-101-151. Reinstatement.

A new section on reinstatement is added to set forth requirements for reinstatement of a license which has been lapsed for two years or more. The Board would require evidence of hours of continuing education equal to those required for a biennial renewal, information on practice and licensure in other jurisdictions during the period in which the license was lapsed in Virginia, and payment of a reinstatement fee.

A licensee whose license has been revoked is required to submit a new application and the reinstatement fee according to these regulations and provisions of § 54.1-2921.

18 VAC 85-101-152. Inactive license.

The proposed new section would establish a category of inactive licensure and specify that such a license holder may renew by indicating his request for inactive licensure on a renewal form and payment of the required fee. An inactive licensee is not required to maintain continuing education but is not permitted to practice radiography.

To reactivate an inactive license, a radiologic technology practitioner is required to verify that he has completed continuing education equal to that required for the period in which he has been inactive, not to exceed one biennium, submit the required application, and pay the difference between the current inactive and active renewal fee.

The Board reserves the right to deny a request for reactivation to any person determined to have committed a violation of these regulations or of § 54.1-2914 of the Code of Virginia.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The amendments will have no impact on the authority and rights of parents in the education, nurturing or supervision of their children. They may encourage self-pride for licensees who obtain additional training which they may not have otherwise pursued. The amendments should have no impact on the marital commitment. Disposable income of practitioners who are required to obtain the training will decrease slightly depending on the type of continuing competency activities selected.